

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

FINWARD L. SCOTT,

Plaintiff,

v.

No. 22-cv-0908 KG-GBW

METROPOLITAN DETENTION CENTER, *et al*,

Defendants,

ORDER OF DISMISSAL

This matter is before the Court following Plaintiff Finward Scott's failure to prosecute his *pro se* Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 or his Amended Prisoner Civil Rights Complaint. (Docs. 3, 5) (Pleadings). Scott filed the Pleadings while detained at the Metropolitan Detention Center (MDC). The MDC inmate locator website reflects Scott is no longer in custody, and he has not provided a current address as required by D.N.M. LR-Civ. 83.6. *See* <https://gtlinterface.berncogov/custodylist/Results>. By an Order entered May 3, 2023, the Court directed Scott to update his address within thirty days or show cause why this case should not be dismissed. (Doc. 7). The Order warned that the failure to timely comply may result in dismissal of this action without further notice.

Scott did not update his address by the June 2, 2023 deadline or otherwise respond. The Clerk's Office mailed the Order to Scott's current address of record, but the mailing was returned with the notation "Out on Detainer." (Doc. 8). Hence, the Court will dismiss the Pleadings without prejudice under Fed. R. Civ. P. 41(b) "for failure to ... comply with [civil rules and] court orders." *Olsen v. Mapes*, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003). To the extent necessary, the Court will also deny a certificate of appealability (COA) as to the habeas claims. The failure to

prosecute this case is not reasonably debatable. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (A COA must be denied in each habeas case unless “reasonable jurists” would debate the outcome); *DeAtley v. Williams*, 782 Fed. App’x 736, 737 (10th Cir. 2019) (declining to issue a COA after district court dismissed habeas petition under Rule 41).

IT IS ORDERED:

1. Finward Scott’s Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 (Doc. 5) is dismissed without prejudice; and a certificate of appealability is denied.
2. Finward Scott’s Amended Prisoner Civil Rights Complaint (Doc. 3) is dismissed without prejudice.
2. The Court will enter a separate judgment closing this civil case.


UNITED STATES DISTRICT JUDGE